

REMARKS

Please cancel Claims 3, 7 and 11 without prejudice. Claims 1-2, 4-6, 8-10 and 12-36 are pending. Claims 1, 5, 9, 13, 17, 20-21, 26-29 and 36 are amended herein. Support for the claim amendments is found at least on page 12, lines 2-15, of the instant specification.

Claim Objection

Claim 17 is objected to for the reason cited in the instant Office Action. Claim 17 is amended as suggested by the Examiner.

112 Rejections

The instant Office Action states that Claims 9, 20, 28 and 34 are rejected under 35 U.S.C. § 112, second paragraph, because the modifier “relevant” is vague. Applicants respectfully note that the term “relevant” does not appear in Claim 34, but does appear in Claim 36. Claims 9, 20, 28 and 36 are amended to satisfy the requirements of 35 U.S.C. § 112, second paragraph.

Double Patenting Rejection

The instant Office Action states that Claims 1-2, 4-6, 8-10 and 12-36 are provisionally rejected under the judicially created (nonstatutory) doctrine of obviousness-type double patenting as being unpatentable over Claims 1-21 of copending Application No. 10/016,948. A terminal disclaimer in compliance with 37 CFR § 1.321 is being submitted concurrent with the instant response, thereby obviating the double patenting rejection.

102 Rejections

The instant Office Action states that Claims 1-2, 4-6, 8-10 and 12-36 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hundt, “HP

Caliper – An Architecture for Performance Analysis Tools” and Cierniak et al. (“Cierniak”), “Practicing JUDO: Java™ Under Dynamic Optimizations.” The instant Office Action also states that Claims 1-2, 4-6, 8-10 and 12-36 are rejected under 35 U.S.C. § 102(a) as being anticipated by the admitted prior art (APA) of the background of the instant application. The Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 1-2, 4-6, 8-10 and 12-36 is not anticipated nor rendered obvious by Hundt, Cierniak or APA.

Independent Claims 1, 5 and 9 recite either “patching an entry point of said function to an entry point of said instrumented code; and setting an instruction pointer to the beginning of an application program interface invocation code sequence that precedes said entry point of said instrumented code” or “means for patching an entry point of said function to an entry point of said instrumented code; and means for setting an instruction pointer to the beginning of an application program interface invocation code sequence that precedes said entry point of said instrumented code.” Applicants respectfully submit that these claim limitations are not shown or suggested by Hundt, Cierniak or APA.

Independent Claims 13, 21 and 29 recite either “patching an entry point of said function to an entry point associated with said dynamically generated code; and setting an instruction point to the beginning of said application program interface invocation code sequence” or “means for patching an entry point of said function to an entry point associated with said dynamically generated code; and means for setting an instruction point to the beginning of said application program interface invocation code sequence.” Applicants respectfully submit that these claim limitations are not shown or suggested by Hundt, Cierniak or APA.

That is, Applicants respectfully submit that neither Hundt, Cierniak or APA show or suggest that, after instrumentation of a function, the function's entry point is patched to the instrumented code, nor do Hundt, Cierniak or APA show or suggest that an instruction pointer is set to the beginning of an application program interface invocation code sequence (also referred to as a prologue in the instant application).

Therefore, Applicants respectfully submit that the present claimed invention as recited in independent Claims 1, 5, 9, 13, 21 and 29 is not shown or suggested by Hundt, Cierniak or APA. Accordingly, Applicants respectfully submit that the basis for rejecting Claims 1, 5, 9, 13, 21 and 29 under 35 U.S.C. § 102(a) or 35 U.S.C. § 102(b) is traversed, and that these claims are in condition for allowance. As such, Applicants respectfully submit that the basis for rejecting Claims 2, 4, 6, 8, 10, 12, 14-20, 22-28 and 30-36 under 35 U.S.C. § 102(a) or 35 U.S.C. § 102(b) is also traversed, as these claims are dependent on allowable base claims and contain additional limitations that are patentably distinguishable over Hundt, Cierniak or APA.

Conclusions

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-2, 4-6, 8-10 and 12-36 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these claims.


Applicants have reviewed the references cited but not relied upon (see the Notice of References Cited in the instant Office Action). Applicants did not find those references to show or suggest the present claimed invention.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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